

EXHIBIT 1

INTRODUCTION

Respondent Robert "Bob" Pacheco successfully ran for State Assembly in the November 1998 general election. Respondent Committee to Elect Bob Pacheco to State Assembly (the "Committee") is the controlled committee of Respondent Pacheco, having qualified as a committee on December 22, 1997. At all relevant times the treasurer of Respondent Committee was Jacobo "Jack" Vela.

An audit conducted by the Franchise Tax Board has revealed that Respondents failed to file a late contribution report to disclose a \$21,000 loan which was received by Respondent Committee from Respondent Robert Pacheco on May 26, 1998. The audit also revealed that Respondents failed to timely disclose campaign expenditures totaling \$43,794.96, and that campaign expenditures totaling \$74,663.07 were made directly from Respondent Robert Pacheco's business bank accounts. Respondents failed to disclose the payment of these expenditures by the business. For the purposes of this Stipulation, Respondents' violations of the Political Reform Act (the "Act")¹ are stated as follows:

COUNT 1: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose campaign expenditures totaling \$6,384.93 in a pre-election campaign statement covering the period March 18, 1998 through May 16, 1998, filed on May 26, 1998, in violation of Government Code section 84211.

COUNT 2: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose a \$21,000 loan received from Respondent Robert Pacheco on May 26, 1998 in a late contribution report that was required to be filed by May 27, 1998, in violation of Government Code section 84203.

COUNT 3: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose campaign

¹ The Political Reform Act is contained in sections 81000 through 91014 of the Government Code. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission, enacted pursuant to the provisions of the Act, are contained in sections 18000, *et seq.*, of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

expenditures totaling \$5,498.21 in the semi-annual campaign statement covering the period May 17, 1998 through June 30, 1998, filed on July 31, 1998, in violation of Government Code section 84211.

COUNT 4: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose contributions totaling \$74,663.03 received from Western Hardware Company in the pre-election statement covering the period July 1, 1998 through September 30, 1998, filed on October 5, 1998, in violation of Government code section 84211.

COUNT 5: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose campaign expenditures totaling \$4,112.50 in the pre-election campaign statement covering the period July 1, 1998 through September 30, 1998, filed on October 5, 1998, in violation of Government code section 84211.

COUNT 6: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to report a contribution of \$8,983.75 from Pacheco and Pacheco, Attorneys at Law, in the pre-election campaign statement covering the period October 1, 1998 through October 17, 1998, filed on October 22, 1998, in violation of Government Code section 84211.

COUNT 7: Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose campaign expenditures totaling \$27,799.27 in the pre-election campaign statement covering the period October 1, 1998 through October 17, 1998, filed on October 22, 1998, in violation of Government Code section 84211.

SUMMARY OF THE LAW

Campaign Disclosure

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and so that improper practices may be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

1. Duty to File Campaign Statements

Section 82013, subdivision (a) defines a “committee” as any person or combination of persons who receives contributions of \$1,000 or more in a calendar year. Section 82016, subdivision (a) defines a "controlled committee" as a committee that a candidate or state measure proponent controls, through the exercise of significant influence on the actions or decisions of the committee, or a committee that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. Any person or persons who constitutes a committee, pursuant to section 82013, subdivision (a), is required to file pre-election campaign statements and semi-annual campaign statements as provided in sections 84200.5 and 84200, respectively.

Under section 82007 and Regulation 18404, subdivision (d), a controlled committee’s filing obligations continue in effect, until such time as that committee is legally terminated. Section 84214 and Regulation 18404, subdivision (b) provide that a controlled committee is not legally terminated until the committee’s treasurer files a termination statement on behalf of the committee, declaring that all of the pre-conditions for termination have been met.

2. Pre-election Campaign Statements

As provided in section 84200.5, subdivision (c), all candidates and their controlled committees, for an election that is not being held in June or November of an even-numbered year, shall file pre-election campaign statements according to a schedule set forth at section 84200.8. Section 84200.8, subdivision (a) requires candidates and their controlled committees to file a first pre-election campaign statement no later than forty days before the election, disclosing contributions and expenditures occurring up to forty-five days before the election. Section 84200.8, subdivision (b) requires candidates and their controlled committees to file a second pre-election campaign statement no later than twelve days before the election, disclosing contributions and expenditures occurring between forty-four and seventeen days before the election.

3. Semi-annual Campaign Statements

Section 84200, subdivision (a) further provides that candidates and their controlled committees must file semi-annual campaign statements each year, no later than July 31, to disclose contributions and expenditures that occur during the semi-annual reporting period ending June 30, and no later than January 31, to disclose contributions and expenditures that occur during the semi-annual reporting period ending December 31.

4. Duty to Disclose and Itemize Contributions

Each campaign statement that is required to be filed by a candidate or committee under the Act must contain certain specified information about the contributions received by that candidate or committee. Section 84211, subdivision (a) requires disclosure of the total amount of contributions received during the period covered by the campaign statement and the total cumulative amount of

contributions received. Section 84211, subdivision (c) requires disclosure of the total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars (\$100) or more. Section 84211, subdivision (d) requires disclosure of the total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars (\$100). Section 84211, subdivision (e) requires disclosure of the balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement. Finally, if the cumulative amount of the contributions received from a contributor is \$100 or more, and the candidate or committee receives a contribution from the contributor during the reporting period, Section 84211, subdivision (f) requires that the committee campaign statement for that reporting period contain the following itemized information: (1) the contributor's full name, address, occupation and employer; (2) the date and amount of the contribution; and (3) the cumulative amount of the contributions received from the contributor.

Section 82015, subdivision (a) states, in pertinent part, that a "contribution" means "a payment... except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes." Section 82015, subdivision (b)(1) goes on to state that a payment made at the behest of a committee, as defined in subdivision (a) of section 82013, is a contribution to the committee unless full and adequate consideration for making the payment is received from the behesting committee. Section 82015, subdivision (b)(2) states that a payment made at the behest of a candidate is a contribution to the candidate, unless full and adequate consideration is received from the candidate, or it is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office.

5. Duty to Disclose and Itemize Expenditures.

Pursuant to section 84211, subdivisions (b), and (h) through (j),² as they existed in 1998 and 1999, each campaign statement that was required to be filed by a candidate or committee under the Act was required to contain certain specified information about the expenditures made by that candidate or committee. Section 84211, subdivision (b) required disclosure of the total amount of expenditures made during the period covered by the campaign statement. Section 84211, subdivision (h) required the disclosure of the total amount of expenditures made during the period covered by the campaign statement to persons who received one hundred dollars (\$100) or more. Section 84211, subdivision (i) required disclosure of the total amount of expenditures made during the period covered by the campaign statement to persons who received less than one hundred dollars (\$100). Section 84211, subdivision (j)(1) - (4) required that, for each person to whom an expenditure of \$100 or more was made during a reporting period, the campaign statement must contain the following information: the full name and address of the person; the amount of each expenditure; and a brief description of the consideration for which each expenditure was made. Finally, section 84211, subdivision (j)(6) required disclosure of the

² Subdivisions (h) through (j) were subsequently redesignated as subdivisions (i) through (k).

information required in paragraphs (1) to (4), for each person, if different from the payee, who has provided consideration for an expenditure of five hundred dollars (\$500)³ or more during the period covered by the campaign statement. This is commonly known as "subvendor information."

Section 82025 states that an "expenditure" means "a payment . . . unless it is clear from the surrounding circumstances that it is not made for *political purposes*." (Emphasis added.) This section goes on to state that an expenditure is made on the date the payment is made, or on the date consideration, if any, is received, whichever is earlier.

6. Late Contribution Reporting

A late contribution means any contribution, including a loan, which totals in the aggregate \$1,000 or more, that is made to, or received by, a candidate or a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure, before the date of the election at which the candidate or measure is to be voted on, but after the closing date⁴ of the last campaign statement required to be filed before the election. (Sec. 82036.)

Each candidate or committee that makes a late contribution must report it by mailgram, telegram, guaranteed overnight mail through the United States Postal Service, or personal delivery, within 24 hours of the time it is received. (Sec. 84203, subd. (a) and (b).) Late contribution reporting serves an important function by informing voters of contributions received during the crucial last two weeks prior to an election. The late contribution period for the November 4, 1997 election was October 19, 1997 through November 3, 1997.

7. Treasurer Liability

Under section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds, are complied with. A committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sec. 83116.5, and sec. 91006.)

SUMMARY OF THE FACTS

Pursuant to section 90001 of the Government Code, the California Franchise Tax Board conducted an audit of Respondent Committee to Elect Bob Pacheco to State Assembly, covering the

³ At the time of these violations the triggering amount was \$100.

⁴ The "closing date" for a campaign statement is the date through which the statement must be completed. (Sec. 82010.)

period January 1, 1997 through December 31, 1998. The auditors determined that Respondent Committee qualified as a committee on December 22, 1997 by receiving contributions totaling \$1,000 or more. The treasurer for Respondent Committee, during the period covered by the audit, was Jacobo "Jack" Vela. In June of 1999, James W. Trimble, of the accounting firm Trimble Morin & Co replaced Mr. Vela as the treasurer for Respondent Committee. The audit revealed that Western Hardware Company is a business solely owned by Respondent Pacheco. Pacheco and Pacheco, Attorneys at Law, was a law firm in which Respondent Pacheco and his wife Gayle Pacheco were partners.

On August 6, 2001, FPPC Enforcement Division Accounting Specialist Luz Bonetti interviewed Respondent Vela. Respondent Vela stated that, although he is an accountant, he had never served as a campaign treasurer previously, and the campaign finances of Respondent Committee were actually handled by Respondent Pacheco's wife, Gayle Pacheco.

On August 14, 2001, Accounting Specialist Bonetti interviewed Gayle Pacheco. Ms. Pacheco stated that the violations disclosed in the audit were unintentional, but the bottom line was that they were her fault. She stated that she kept all the financial records for the campaign and that, although she kept the books for her and her husband's business, this was the first time she had kept books for a political campaign. Ms. Pacheco stated that Respondents used credit cards to pay for campaign expenses in emergencies, and that they were not sure how to handle these expenditures for reporting purposes. She stated that she believed any failure to report expenditures was due to the use of credit cards and Respondents' being unaware of how to report such expenditures. She also stated that the campaign ran low on funds, so Respondents had to rely on loans from the Pachecos' personal funds to keep the campaign going.

On June 29, 2001, Accounting Specialist Bonetti interviewed Dana Oldenburg. Ms. Oldenburg stated that she is a Certified Public Accountant with the firm of Trimble Morin & Company, and is James W. Trimble's assistant. Ms. Oldenburg stated that Respondents came to Trimble Morin in 1999 when Respondents learned their campaign was being audited by the Franchise Tax Board. She stated that Trimble Morin worked with the auditors through 1999 to make sure that necessary amendments were made to Respondents' campaign statements and that "it was just a nightmare." She added that whenever Respondent Committee ran out of money, the Pachecos just used a credit card, and they just didn't understand the rules.

Count One: Failure to disclose expenditure in a pre-election campaign statement filed on or about May 26, 1998, in violation of Government Code section 84211.

The audit conducted by the Franchise Tax Board disclosed that during the pre-election period March 18, 1998 through May 16, 1998, Respondents made campaign expenditures using campaign credit cards. The audit found that Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela, failed to report approximately \$6,384.93 worth of these expenditures in the pre-election statement which they filed on or about May 26, 1998.

Respondents subsequently reported these expenditures, after the June 2, 1998 primary election, in the semi-annual campaign statement which they filed on July 31, 1998. By failing to disclose campaign expenditures totaling approximately \$6,384.93, made during the reporting period ending May 16, 1998, in the pre-election campaign statement that they filed on or about May 26, 1998, Respondents violated Government Code section 84211.

Count Two: Failure to disclose a late contribution in a properly filed late contribution report by May 27, 1998, in violation of Government Code section 84203.

The audit conducted by the Franchise Tax Board disclosed that on May 26, 1998, Respondent Robert Pacheco made a loan of \$21,000 to Respondent Committee out of his personal funds. The late contribution period for the primary election held on June 2, 1998 was May 17, 1998 through June 1, 1998. Because this loan was made during the late contribution period, Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela were required to file a late contribution report disclosing the loan within 24 hours of receiving it. The audit disclosed that no such report was filed. By failing to file a late contribution report disclosing a \$21,000 loan received by Respondent Committee from Respondent Pacheco on May 26, 1998, by the due date of May 27, 1998, Respondents violated Government Code section 84203.

Count Three: Failure to disclose expenditures in a semi-annual campaign statement filed on or about July 31, 1998, in violation of Government Code section 84211.

An audit conducted by the Franchise Tax Board disclosed that during the semi-annual reporting period of May 17, 1998 through June 30, 1998, Respondents made campaign expenditures using campaign credit cards. The audit found that, in the semi-annual statement filed on or about July 31, 1998, Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela failed to disclose approximately \$5,498.21 of these campaign expenditures. On February 25, 2000, Respondents filed an amended semi-annual campaign statement for this period in which they disclosed this \$5,498.21 in expenditures. By failing to timely report \$5,498.21 in campaign expenditures made during the semi-annual period ending June 30, 1998 in the semi-annual campaign statement that they filed on or about July 31, 1998, Respondents violated Government Code section 84211.

Count Four: Failure to disclose contributions in a pre-election campaign statement filed on or about October 5, 1998, in violation of Government Code section 84211.

The audit conducted by the Franchise Tax Board disclosed that during the pre-election reporting period of July 1, 1998 through September 30, 1998, Respondents made numerous campaign expenditures using campaign credit cards, and that these credit card charges, totaling approximately \$74,663.03, were then paid by Western Hardware Company, a business solely owned by Respondent

Robert Pacheco. Payment of these campaign expenditures constituted contributions to Respondent Committee by Western Hardware Company. In the pre-election statement filed by Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela on or about October 5, 1998, Respondents failed to disclose these contributions. By failing to disclose campaign contributions totaling approximately \$74,663.03 received from Western Hardware Company during the pre-election period ending September 30, 1998, in the pre-election campaign statement filed on or about October 5, 1998, Respondents violated Government code section 84211.

Count Five: Failure to disclose expenditures in a pre-election campaign statement filed on or about October 5, 1998, in violation of Government Code section 84211.

The audit conducted by the Franchise Tax Board disclosed that during the pre-election period July 1, 1998 through September 30, 1998, Respondents made several campaign expenditures using campaign credit cards. The audit found that, in the pre-election campaign statement filed by Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela on or about October 5, 1998, Respondents failed to disclose approximately \$4,112.50 worth of these expenditures. On February 25, 2000, Respondents filed an amended pre-election campaign statement for this period in which they disclosed this \$4,112.50 in expenditures. By failing to disclose approximately \$4,112.50 in campaign expenditures in the pre-election campaign statement that they filed on or about October 5, 1998, Respondents violated Government Code section 84211.

Count Six: Failure to disclose contributions in a pre-election campaign statement filed on or about October 22, 1998, in violation of Government Code section 84211.

The audit conducted by the Franchise Tax Board disclosed that during the pre-election period October 1, 1998 through October 17, 1998, Pacheco and Pacheco, Attorneys at Law, paid for approximately \$8,983.75 in campaign expenses on behalf of Respondent Committee. Payment of these campaign expenses constituted a contribution by Pacheco and Pacheco, Attorneys at Law, to Respondent Committee. In the pre-election campaign statement filed by Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela on or about October 22, 1998, Respondents failed to report this contribution. By failing to report a contribution of approximately \$8,983.75 from the law firm of Pacheco and Pacheco, Attorneys at Law, in the pre-election campaign statement that they filed on or about October 22, 1998, Respondents violated Government Code section 84211.

Count Seven: Failure to disclose expenditures in a pre-election campaign statement filed on or about October 22, 1998, in violation of Government Code section 84211.

The audit conducted by the Franchise Tax Board disclosed that during the pre-election period October 1, 1998 through October 17, 1998, Respondents made numerous expenditures using campaign credit cards. The audit found that, in the pre-election campaign statement filed by

Respondents Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, and Jacobo "Jack" Vela on or about October 22, 1998, Respondents failed to report approximately \$27,799.27 of these expenditures. Respondents reported \$20,266.42 of these expenditures after the November 3, 1998 General Election in a semi-annual statement which Respondents filed on February 1, 1999. Respondents reported the remaining \$7,532.85 of these expenditures in an amended pre-election statement for the reporting period October 1, 1998 through October 17, 1998, filed by Respondents on February 25, 2000. By failing to disclose campaign expenditures totaling approximately \$27,799.27 in the pre-election statement for the reporting period ending October 17, 1998, filed by Respondents on or about October 22, 1998, Respondents violated Government Code section 84211.

CONCLUSION

This matter consists of seven counts, which carry a maximum possible administrative penalty of fourteen thousand dollars (\$14,000). Respondents have no prior record of PRA violations, however, the violations in this case are substantial and numerous. Respondents failed to disclose in a timely fashion a substantial amount of campaign contributions and expenditures and failed to report a \$21,000 late contribution to Respondent Committee. Respondent Robert Pacheco is an attorney and during the time these violations were committed, Bob Pacheco was serving as a City Councilmember for the City of Walnut. Therefore he was familiar with his reporting obligations under the Political Reform Act. Respondent Vela, the committee treasurer, was, at the time of these violations, an accountant. Although he states that Gayle Pacheco prepared the campaign statements and he did little more than review and sign the statements, as the committee treasurer, he had the obligation to ensure their accuracy and, as an accountant, he had greater training and expertise in general accounting practices than a layperson, even though he states he had no prior experience with the requirements of the Political Reform Act.

In mitigation, there is no evidence of any intent to conceal or deceive, Respondents have cooperated fully with the investigation by providing complete statements to Accounting Specialist Bonetti, and Respondents have filed amended statements addressing the errors detailed in the audit.

Based on all the circumstances of the case, as outlined above, the agreed upon penalty of fourteen thousand dollars (\$14,000) is appropriate.